

## REMARKS

Reconsideration and allowance are respectfully requested in view of the foregoing amendments and the following remarks.

Claims 1-33 are pending in this application.

### Regarding the Section 103 Rejections.

Applicant respectfully points out that Section 706.02(j) of the MPEP holds that there are three necessary elements to establish a *prima facie* case of obviousness as adopted from *In Re Vaeck*. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine the reference teachings. *In Re Vaeck*, 947 F.2d 488. Second, there must be a reasonable expectation of success. Finally, the prior art reference, or references when combined, must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and their reasonable expectation of success must both be found in the prior art and not be based on the applicant's disclosure. *Id.*

Claims 1-15, 19-20, 22 and 25-33 were rejected under 35 USC Section 103(a) as being unpatentable over O'Connor et al. (US patent number 6,450,704) in view of the cited prior art in Figure 1 of the present application. Applicant points out that neither O'Connor nor the prior art in Figure 1 disclose the use of "at least one alignment member formed on the lid portion." (The present specification discusses the alignment members, in part at page 7, line 17-21.) O'Connor discloses the use of alignment apertures in the substrate (the portion of the optical assembly through which the transmission paths of the optical device pass), but O'Connor does not disclose the use of "at least one alignment member formed" on that substrate. Rather, O'Connor discloses the use of separate guide pins (also referred to as alignment pins) that may or may not attach to a guide pin holder (col. 4, lines 19-30). The guide pin holder disclosed by O'Connor is a separate and distinct element from the substrate.

There is nothing in O'Connor that motivates, teaches or suggests that the alignment pins could be attached to anything other than the alignment pin holder. Therefore, it is clear that the alignment apertures in the substrate are not alignment members formed on a lid portion.

The fact that the alignment apertures of O'Connor are not alignment members formed on the lid portion is further reinforced by the following. First, O'Connor does not indicate that the alignment member can be adapted to be received by the connector (See the present application at page 4, lines 16-17). Instead, the apertures discussed by O'Connor do not protrude from the substrate, and therefore can not be received by a connector. This difference explains the need in O'Connor for the separate guide pins and the guide pin holder. Second, the structure disclosed by O'Connor is inconsistent with the purpose for the invention discussed in the present application. O'Connor requires a multi-step machining process to ensure the precision coordination of the alignment apertures and the retaining receptacles that is both costly and time-consuming (See present application at page 4, lines 1-9). Conversely, the present application discusses a method of manufacturing that reduces the number of required high-precision steps and provides for an enclosure that is better suited to batch processing. One of the high-precision steps that the present application eliminates is the precision coordination of the alignment apertures. Third, O'Connor does not suggest or provide the motivation for creating alignment members that are formed on the lid portion. There is no teaching, suggestion or motivation in O'Connor indicating that the members may be formed through (1) chemical vapor deposit, (2) curable material bonding, or (3) welding (See page 9, line 8 - page 10, line 14, wherein these methods of forming are discussed). Thus, as the foregoing examples illustrate, the alignment apertures of O'Connor are not alignment members formed on the lid portion. Accordingly, O'Connor does not teach or suggest all the claim limitations.

Additionally, applicant respectfully submits that the cited prior art in Figure 1 does not remedy the deficiencies in O'Connor. The cited prior art requires the guide pins (26) to be inserted into the pin retaining receptacles (28) and the alignment apertures (30). The alignment apertures (30) are fabricated in the lid (12), and the guide pins (26) are separate from the lid (12). As such, the guide pins are not "formed on the lid portion" (12) and therefore the cited prior art does not teach or suggest all of the claim limitations. Therefore, because neither O'Connor, the cited prior art, nor the combination of the two teaches, suggests or motivates the use of "at least one alignment member formed on the lid portion", the *prima facie* case for obviousness has not been established. Accordingly, the applicant respectfully requests that the rejections to claims 1-15, 19-20, 22 and 25-31 be withdrawn. The applicant respectfully submits the claims are ready for allowance.

Regarding claims 32 and 33, these claims were rejected under 35 USC Section 103(a) as being unpatentable over O'Connor in view of the cited prior art in Figure 1. Applicant has amended claim 32 to require that the lid assembly have "at least one alignment member formed thereon." Claim 33 incorporates this amended requirement by reference to claim 32. Therefore, in light of the remarks presented above regarding Examiner's section 103(a) rejections, applicant submits that, as amended, claims 32 and 33 are not rendered obvious by O'Connor in view of the cited prior art in Figure 1. Accordingly, applicant respectfully requests that the rejections to claims 32 and 33 be withdrawn and submits that claims 32 and 33 are ready for allowance.

#### Regarding the Claim Objections

Applicant appreciates the Examiner's indication that claims 16-18, 21, 23 and 24 are objected to as being dependent upon rejected base claims, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening


claims. However, in light of the remarks presented above concerning independent claims 1 and 13 and the applicant's belief that these independent claims are ready for allowance, the objections presented are moot. Accordingly, the applicant respectfully submits that claims 16-18, 21, 23 and 24 are ready for allowance.

Should the Examiner have any further questions or comments facilitating allowance, the Examiner is invited to contact Applicant's representative indicated below to further prosecution of this application to allowance and issuance.

In view of the above, it is believed that this application is in condition for allowance, and such a Notice is respectfully requested.

Respectfully submitted,

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